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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/603,643

06/25/2003

C. David Shook

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EXAMINER

NGUYEN, CAMTU TRAN

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

07/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/603,643

Applicant(s)

SHOOK ET AL.

Examiner

Camtu T. Nguyen

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

This Office Action is in response to applicant's amendment filed on June 21, 2007.

Claims 1-4, 8-10, 16, and 17 have been amended. Claim 20 has been cancelled. Claims 21-24 are newly added claims.

Applicant's remarks pertaining to the Sabin et al have been carefully considered but deemed not persuasive. In particular, applicant asserted the Sabin et al lack a moldable gel pad. With regards to gel pad being moldable, the Sabin et al's gel pack is provided a preformed stiffenable gel and a solvent, that which when temperature rises, the solvent evaporate which causes the preformed gel to stiffen and when the temperature falls, the evaporated solvent returns to gel, reducing its stiffness, thus, the Sabin et al's gel pack is moldable when the preformed gel is in its fallen temperature condition.

Therefore, it is inescapable that the Knox et al in view of Sabin et al discloses applicant's invention.

For the same reasons above, it is inescapable that the Gold et al in view of the Sabin et al discloses applicant's invention.

Applicant's comments pertaining to the Knox et al's lacking a compression stocking are acknowledged.

Applicant's comments pertaining to the Ricci et al's reference are acknowledged.

Applicant's comments pertaining to the Gold's lacking a compression stocking are acknowledged however, deemed not persuasive. Applicant asserted that the Gold reference lacks

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the compression stocking and that the Gold reference does not use the words “compress”, “compression”, and “stocking” therein. Applicant is first of all reminded that claims should be given their broadest interpretation. Applicant does not define the term “compression stocking” in the specification other than “graded compression stockings have the highest level of compression at the ankle and it decreases as the stocking goes up the leg” on page 2 lines 2-4. The Gold’s sock on Figure 6 illustrating the sock material is stretchy material that would hug the patient’s limb, thus, making the sock a compression sock or a compression stocking. Therefore, the Gold’s sock in Figure 6, given its broadest but within reasonable interpretation, the Gold’s sock in view of Sabin et al discloses applicant’s invention.

The claims, as amended, have been carefully considered but are rejected in the following manner.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In this claim, on lines 5 & 6, the recitation “said moldable gel pad is compressed” is not supported by the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 7, 9-15, 22, and 24 are rejected under 35 U.S.C. 103 (103 as being unpatentable over Knox et al (U.S. Patent No. 5,814,003) further in view of Sabin et al (U.S. Patent No. 5,984,953). Knox et al discloses in Figure 2 anti-embolism stocking comprising elements recited in these claims including a pocket (16). The Knox et al device is capable of holding a moldable gel pack, such as Sabin et al's gel pack.

Claims 1, 2, 5, 7, 9-15, 22, and 24 are rejected under 35 U.S.C. 103 (103 as being unpatentable over Knox et al (U.S. Patent No. 5,814,003) further in view of Beisang, III et al (U.S. Patent No. 5,984,953). Knox et al discloses in Figure 2 anti-embolism stocking comprising elements recited in these claims including a pocket (16). The Knox et al device is capable of holding a moldable gel pack, such as Beisang, III et al's moldable gel pack.

Claim 1-6, 8-19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814) and further in view of Sabin et al (U.S. Patent No. 5,984,953). Gold discloses in Figures 6 and 7 a sock (400) with attached heater pack (34) comprising elements as recited in these claims including the sock (400) having a chamber (450) for receiving the heater pack (30) but does not teach a gel pad. Sabin et al discloses a well-known heat pack which relates to a self-heating thermal heat pack provided through the use of preformed reversibly stiffened gel that alters the rate of exothermic chemical reactions.

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Therefore it would have been obvious to one skilled in the art during the time of the invention to use the Sabin et al's gel pack instead as such would be not only environmentally friendly but also economically sound. With regards to the compression stocking and the understocking, as recited, it is not unreasonable to interpret these elements in the claims given their broadest reasonable interpretation consistent with the supporting description. According to applicant's disclosure on page 8 lines 6-8, the Gold's sock (400) as illustrated in Figure 7 having an upper outer wall (402), a lower outer wall (401), and an inner chamber wall (403) can be easily meet applicant's compression stocking and understocking wherein the Gold's upper outer wall (402) fits over the inner chamber wall (403) and secures the inner chamber wall (403) and the heater pack (30) to the user's or patient's body. The Gold device would be capable of performing the method of treating a patient having venous insufficient via Gold's sock using Sabin et al's gel pack. With regards to claims 5, 6, and 13, the Gold's chamber (450) is bounded by a joint at where the upper wall and the lower wall (401, 402) and the opening end of the chamber where mating hook and pile connectors (441, 442) are found. Therefore it would have been obvious to one or ordinary skill in the art to recognize the Gold's chamber (450), structured as described above, as the same equivalent for the same purpose as claimed.

Claim 1-6, 8-19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814) and further in view of Beisang, III et al (U.S. Patent No. 4,596,250). Gold discloses in Figures 6 and 7 a sock (400) with attached heater pack (34) comprising elements as recited in these claims including the sock (400) having a chamber (450) for receiving the heater pack (30) but does not teach a gel pad. Beisang, III et al discloses a moldable cooling/heating device. Therefore it would have been obvious to one skilled in the art

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during the time of the invention to use the Beisang, III et al instead as such would be not only environmentally friendly but also economically sound. With regards to the compression stocking and the understocking, as recited, it is not unreasonable to interpret these elements in the claims given their broadest reasonable interpretation consistent with the supporting description. According to applicant's disclosure on page 8 lines 6-8, the Gold's sock (400) as illustrated in Figure 7 having an upper outer wall (402), a lower outer wall (401), and an inner chamber wall (403) can be easily meet applicant's compression stocking and understocking wherein the Gold's upper outer wall (402) fits over the inner chamber wall (403) and secures the inner chamber wall (403) and the heater pack (30) to the user's or patient's body. The Gold device would be capable of performing the method of treating a patient having venous insufficient via Gold's sock using Sabin et al's gel pack. With regards to claims 5, 6, and 13, the Gold's chamber (450) is bounded by a joint at where the upper wall and the lower wall (401, 402) and the opening end of the chamber where mating hook and pile connectors (441, 442) are found. Therefore it would have been obvious to one of ordinary skill in the art to recognize the Gold's chamber (450), structured as described above, as the same equivalent for the same purpose as claimed.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814), modified by Sabin, et al (U.S. Patent No. 5,984,953), and further in view of Lyles (U.S. Patent No. 6,001,122). Gold, as modified by Sabin et al, presented above, discloses in Figures 6 and 7 a sock (400) with attached heater pack (34) comprising elements as recited in these claims including a chamber (450) for receiving a heater pack (30) but does not teach the chamber (450) extends 360 degrees within the sock (400). Lyles discloses in Figures 1-4 a

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bootie (10) with thermal pack (24) removably situated within a pair of pockets (18) that which are mounted on the sleeve (18) of the bootie (10), the pair of pockets (18) includes a top pocket (18) and a bottom pocket (22) and as illustrated in Figure 4 the pockets (18) extends 360 degrees. Therefore it would have been obvious to one skilled in the art during the time of the invention to modify Gold's chamber such that it would extend 360 degrees within the sock (400) as such would provide the more chamber area.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814), modified by Beisang, III et al (U.S. Patent No. 4,596,250), and further in view of Lyles (U.S. Patent No. 6,001,122). Gold, as modified by Beisang III, et al, presented above, discloses in Figures 6 and 7 a sock (400) with attached heater pack (34) comprising elements as recited in these claims including a chamber (450) for receiving a heater pack (30) but does not teach the chamber (450) extends 360 degrees within the sock (400). Lyles discloses in Figures 1-4 a bootie (10) with thermal pack (24) removably situated within a pair of pockets (18) that which are mounted on the sleeve (18) of the bootie (10), the pair of pockets (18) includes a top pocket (18) and a bottom pocket (22) and as illustrated in Figure 4 the pockets (18) extends 360 degrees. Therefore it would have been obvious to one skilled in the art during the time of the invention to modify Gold's chamber such that it would extend 360 degrees within the sock (400) as such would provide the more chamber area.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,424,808 (Schafer et al) discloses a fabric of the bandage that can be used for inflammatory venous insufficiencies (column 2 lines 47-51).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Camtu Nguyen
July 16, 2007


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7/23/07